



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### PIEDMONT REGIONAL OFFICE

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Secretary of Natural Resources

David K. Paylor  
Director

Gerard Seeley, Jr.  
Regional Director

## AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT

### ISSUED TO

**HAWKEYE MANUFACTURING, INC.**

**Registration Number 52158**

### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §10.1-1309 and §10.1-1316, between the Air Pollution Control Board and Hawkeye Manufacturing, Inc., for the purpose of resolving certain alleged violations of environmental law and/or regulations.

### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Air Pollution Control Law" means Va. Code § 10.1-1300 *et seq.*
3. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
4. "Hawkeye" means Hawkeye Manufacturing, Inc., a corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
5. "Facility" or "Plant" means Hawkeye.
6. "Old Location" means Hawkeye's former address of 1125 Commerce Road, Richmond, Virginia, which was used from approximately 2001 through 2006.

7. "New Location" means Hawkeye's present address at 1500 Commerce Road, Richmond, Virginia.
8. "Director" means the Director of the Department of Environmental Quality.
9. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
10. "Order" means this document, also known as a Consent Order.
11. "Permit" means the New Source Review permit (Registration Number 52158) issued to Hawkeye Manufacturing, Inc. on December 1, 2006.
12. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
13. "Regulations" means the Commonwealth of Virginia State Air Control Board Regulations for the Control and Abatement of Air Pollution.
14. "MACT WWW" means the National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production from Title 40 of the Code of Federal Regulations Part 63.

**SECTION C: Findings of Fact and Conclusions of Law**

1. Hawkeye operated a hot tub manufacturing facility located at 1125 Commerce Road, in Richmond, Virginia from approximately 2001 through 2006. Hawkeye has moved and is now located at 1500 Commerce Road in Richmond, Virginia.
2. On May 25, May 30, and June 28, 2006, DEQ Piedmont Regional Office (PRO) staff conducted an inspection of Hawkeye at their Old Location. The following alleged violations were observed during the inspections:
  - a. Department records indicate the facility was constructed and operated without a minor source permit as required by 9 VAC 5-80-1120 (A) for approximately 15 years.
  - b. Even though the particulate matter emissions are controlled by a dust collection system, during the May 25, 2006 inspection DEQ staff asserted that fugitive emissions from material handling processes were not controlled sufficiently to prevent all particulate matter from becoming airborne, as required by 9 VAC 5-50-90;
  - c. Volatile organic compound (VOC) emissions throughout the exterior and interior portions of the facility were not controlled so as to minimize VOC emissions as required by 9 VAC 5-50-20 (F);
  - d. Department records indicate that the facility did not register its operations with DEQ as required by 9 VAC 5-20-160 (A).

3. During the post inspection meeting on May 25, 2006, DEQ PRO staff provided the Facility with a permit application and requested the Facility to submit the completed application to the Department by June 20, 2006.
4. DEQ received a permit application on June 23, 2006. During the permit application process, DEQ asserted that Hawkeye was operating as a major stationary source for the purpose of MACT for the purpose of MACT WWW at least throughout 2006. Upon receiving the permit application Department staff determined that Hawkeye did not meet the MACT WWW compliance date of April 21, 2006 as required by 40 CFR 63.5800, which unknown to Hawkeye, had gone into effect on April 21, 2006, approximately seven months before Hawkeye moved to its New Location.
5. On August 23, 2006, DEQ issued Notice of Violation ("NOV") Number 06-08-PRO-402 for the above alleged violations, which have been disputed by Hawkeye.
6. On September 19, 2006, a meeting was held between DEQ staff and Hawkeye to discuss the NOV. DEQ requested that Hawkeye submit a revised permit application. The revised permit application was provided to DEQ on October 13, 2006. The new permit application included data based upon utilization of a new, more expensive resin formulation that achieves lower styrene emissions, which results in Hawkeye's emissions being below the required emission limit of the MACT WWW without installing control equipment. Calculations performed with the previous resin formulation indicate that the Facility was operating above the required emission limit of the MACT WWW.
7. On December 1, 2006, Hawkeye was issued a New Source Review Permit.
8. As requested by DEQ, Hawkeye has submitted, on or before December 1, 2007, a complete and approvable application for an Air Pollution Control Operating Permit under Title V of the federal Clean Air Act and applicable Virginia statutes and regulations. Hawkeye's Title V Permit was issued by DEQ effective May 1, 2008.

#### **SECTION D: Agreement and Order**

1. Accordingly, the Board, by virtue of the authority granted it pursuant to Va. Code §§ 10.1-1309 and 10.1-1316, and upon consideration of Va. Code § 10.1-1186.2, the Board orders Hawkeye, and Hawkeye agrees, to perform the actions described below and in Appendix A of this Order. In addition, the Board orders Hawkeye, and Hawkeye voluntarily agrees, to a civil charge of **\$87,560** in settlement of the violations cited in this Order, to be paid as follows:

Hawkeye shall pay **\$21,890** of the civil charge in four quarterly payments, in settlement of the violations cited in the Order in accordance with the following schedule:

- The first payment of **\$5,472.50** shall be made on or before **December 1, 2008**;
- The second payment of **\$5,472.50** shall be made on or before **January 1, 2009**;

- The third payment of **\$5,472.50** shall be made on or before **April 1, 2009; and**
- The fourth payment of **\$5,472.50** shall be made on or before **July 1, 2009.**

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

The payment shall include Hawkeye's Federal ID number and shall identify that payment is being made as a result of this Order.

2. Hawkeye shall satisfy **\$65,670** of the civil charge by satisfactorily completing the Supplemental Environmental Project (SEP) described in Appendix A of this Order.
3. The net project cost of the SEP to Hawkeye shall not be less than the amount set forth in Paragraph D.2. If it is, Hawkeye shall pay the remaining amount in accordance with Paragraph D. 1 of this Order, unless otherwise agreed to by the Department. "Net project costs" means the net present after-tax cost of the SEP, including tax savings, grants, and first-year cost reductions and other efficiencies realized by virtue of project implementation. If the proposed SEP is for a project for which the party will receive an identifiable tax savings (*e.g.*, tax credits for pollution control or recycling equipment), grants, or first-year operation cost reductions or other efficiencies, the net project cost shall be reduced by those amounts. The costs of those portions of SEPs that are funded by state or federal low-interest loans, contracts, or grants shall be deducted.
4. By signing this Order Hawkeye certifies that it has not commenced performance of the SEP.
5. Hawkeye acknowledges that it is solely responsible for completing the SEP project. Any transfer of funds, tasks, or otherwise by Hawkeye to a third party, shall not relieve Hawkeye of its responsibility to complete the SEP as described in this Order.
6. In the event it publicizes the SEP or the SEP results, Hawkeye shall state in a prominent manner that the project is part of a settlement of an enforcement action.
7. The Department has the sole discretion to:
  - a. Authorize any alternate, equivalent SEP proposed by the Facility; and
  - b. Determine whether the SEP, or alternate SEP, has been completed in a satisfactory manner.

8. Should the Department determine that Hawkeye has not completed the SEP, or alternate SEP, in a satisfactory manner, the Department shall so notify Hawkeye in writing. Within 30 days of being notified, Hawkeye shall pay the amount specified in Paragraph D.2., above, as provided in Paragraph D.1., above.

**SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Hawkeye, for good cause shown by Hawkeye, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves the violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Hawkeye by DEQ on August 23, 2006. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of Hawkeye as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Hawkeye admits the jurisdictional allegations but does not admit liability or the Board's findings of fact or conclusions of law. However, Hawkeye consents to the entry of this Order.
4. Hawkeye consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Hawkeye declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order or the right of Hawkeye to challenge any issue of fact or law with respect to the matters contained herein in any administrative or judicial proceeding involving any other entity or other administrative agency.
6. Failure by Hawkeye to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing

herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Hawkeye shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Hawkeye shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Hawkeye shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Hawkeye. Notwithstanding the foregoing, Hawkeye agrees to be bound by any compliance date, which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Hawkeye. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Hawkeye from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Hawkeye voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of July 2, 2008.

Gerard Seeley Jr.  
Gerard Seeley Jr., Regional Director  
Department of Environmental Quality

Hawkeye voluntarily agrees to the issuance of this Order.

By: David Shoaf  
David Shoaf  
President

Date: 6-30-08

Commonwealth of Virginia

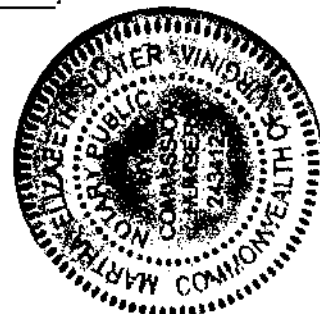
City/County of Richmond

The foregoing document was signed and acknowledged before me this 30<sup>th</sup> day of  
June, 2008, by David Shoaf, who is  
(name)

President of Hawkeye Manufacturing, Inc., on behalf of the Corporation.  
(title)

Michael S. [Signature]  
Notary Public

My commission expires: 7/7/2012  
License # 243912



## **APPENDIX A – Environmental Management System**

Hawkeye shall perform the SEP identified below in the manner specified in this Appendix.

### **General EMS Provision:**

A comprehensive compliance-focused EMS shall be developed, implemented, and maintained by Hawkeye. The EMS shall address, at a minimum, the 12 key elements listed below, and shall be described in an “Environmental Management System Manual.”

### **I. Definitions**

“**Action Plan**” means a comprehensive plan for bringing the Facility as defined below, into full conformance with the EMS provisions specified in Paragraph II.D, of this Appendix and fully addressing all Audit Findings identified in the Audit Report.

“**Audit Finding**” means a written summary of all instances of non-conformance with the provisions specified in Paragraph II.D, of this Appendix noted during the EMS audit, and all areas of concern identified during the course of the audit merits further review or evaluation for potential EMS, environmental, or regulatory impacts.

“**Audit Report**” means a report setting forth the Audit Findings resulting from the audit of a Facility by the Auditor, which meets all of the requirements set forth in Paragraph II.M, of this Appendix.

“**Auditor**” means the appropriately trained company personnel or independent third-party hired by Hawkeye to conduct an EMS audit at the Facility, and who meets the requirements set forth in Paragraph II.G, of this Appendix.

“**Corrective Measures**” means those measures or actions appropriate to bring the Facility into full conformance with the EMS provisions of Paragraph II.D, of this Appendix.

“**Environmental Requirements**” means all applicable federal, state, and local environmental statutes and regulations, including permits and enforceable agreements between the Hawkeye and the respective environmental regulatory agencies.

“**Facility**” means as defined in the Consent Order.

“**Initial Auditor**” means individual(s) meeting the requirements of Paragraph II.A, below, who are selected and/or contracted to perform the Initial EMS Review and Evaluation.



## **II. Environmental Management System**

- A. **Initial Auditor Selection.** Within 60 days of the effective day of this Order, Hawkeye shall submit to DEQ in writing:
- the name and affiliation of the Initial Auditor(s) selected by the Facility to conduct the Initial EMS Review and Evaluation;
  - evidence that each Initial Auditor(s) satisfies the qualification requirements of International Organization for Standardization (ISO) 14012 (First edition, 1996-10-01), and that the team conducting the Initial EMS Review and Evaluation, in composite, has a working process knowledge of the Facility or similar operations, and has a working knowledge of federal and state environmental requirements which apply to the Facility;
  - a schedule, including milestones, for conducting the Initial EMS Review and Evaluation.
- B. **Initial Environmental Management System Review and Evaluation.** Hawkeye shall direct the Initial Auditor(s) identified pursuant to paragraph II.A, above, to conduct and complete an Initial EMS Review and Evaluation (commonly referred to as a “gap” analysis) for Hawkeye. The designated Initial Auditor(s) shall review and evaluate the current EMS or environmental auditing system, using the elements set forth in paragraph II.D, below to identify where systems or subsystems have not been adequately developed or implemented. The results of the Initial EMS Review and Evaluation shall be documented in a report prepared by the Initial Auditor(s) and provided to the Facility.
- C. **Comprehensive Environmental Management System.** Based on the Initial EMS Review and Evaluation results and other information, the Facility shall develop a Comprehensive EMS for the Facility addressing, at a minimum, the twelve key elements presented in paragraphs II.D, below. The purpose of developing the Comprehensive EMS is to assist Hawkeye in its efforts to comply with federal, state and local environmental requirements.
- D. **Environmental Management System Manual.** Within two hundred seventy (270) days of the effective date of this Order, Hawkeye shall complete the preparation of an “EMS Manual” which shall describe and document the Comprehensive EMS and contain an EMS implementation schedule for each of the described systems and subsystems not already implemented. For each of the elements identified in Paragraph II.D, below, as appropriate, the manual shall describe the EMS, in detail, by explaining how the activity or program is or will be:
- established as a formal system, subsystem or task,
  - integrated into ongoing department operations,

- continuously evaluated and improved.

The Environmental Management System Manual shall describe respective management systems, subsystems, and tasks for the following elements:

### **1. Environmental Policy**

- a. This policy, upon which the EMS is based, must clearly communicate management commitment to achieving compliance with applicable federal, state, and local environmental statutes, regulations, enforceable agreements, and permits (hereafter, “environmental requirements”) and continual improvement in environmental performance. The policy should also state management’s intent to provide adequate personnel and other resources for the EMS.

### **2. Organization, Personnel, and Oversight of EMS**

- a. Describes, organizationally, how the EMS is implemented and maintained.
- b. Includes organization charts that identify units, line management, and other individuals having environmental performance and regulatory compliance responsibilities.
- c. Identifies and defines specific duties, roles, responsibilities, and authorities of key environmental program personnel in implementing and sustaining the EMS (e.g., could include position descriptions and performance standards for all environmental department personnel, and excerpts from others having specific environmental program and regulatory compliance responsibilities).
- d. Includes ongoing means of communicating environmental issues and information to all organization personnel, on-site service providers, and contractors, and for receiving and addressing their concerns.

### **3. Accountability and Responsibility**

- a. Specifies accountability and environmental responsibilities of organization’s managers, on-site service providers, and contractors for environmental protection practices, assuring compliance, required reporting to regulatory agencies, and corrective actions implemented in their area(s) of responsibility.
- b. Describes incentive programs for managers and employees to perform in accordance with compliance policies, standards and procedures.

- c. Describes potential consequences for departure from specified operating procedures, including liability for civil/administrative penalties imposed as a result of noncompliance.

#### **4. Environmental Requirements**

- a. Describes process for identifying, interpreting, and effectively communicating environmental requirements to affected organization personnel, on-site service providers, and contractors, and then ensuring that facility activities conform to those requirements (i.e., ongoing compliance monitoring). Specifies procedures for prospectively identifying and obtaining information about changes and proposed changes in environmental requirements, and incorporating those changes into the EMS (i.e., regulatory "change management").
- b. Establishes and describes processes to ensure communication with regulatory agencies regarding environmental requirements and regulatory compliance.

#### **5. Assessment, Prevention, and Control**

- a. Identifies an ongoing process for assessing operations, for the purposes of preventing and controlling releases, ensuring environmental protection, and maintaining compliance with statutory and regulatory requirements. This section shall describe monitoring and measurements, as appropriate, to ensure sustained compliance. It shall also include identifying operations and waste streams where equipment malfunctions and deterioration, operator errors, and discharges or emissions may be causing, or may lead to:
  - releases of hazardous waste or other pollutants to the environment,
  - threat to human health or the environment, or
  - violations of environmental requirements.
- b. Describes process for identifying operations and activities where documented standard operating practices (SOPs) are needed to prevent potential violations or pollutant releases, and defines a uniform process for developing, approving and implementing the SOPs.
- c. Describes a system for conducting and documenting routine, objective, self inspections by department supervisors and trained staff, especially at locations identified by the process described in a. above, to check for malfunctions, deterioration, worker adherence to SOPs, and unauthorized releases.

- d. Describes process for ensuring input of environmental requirements (or concerns) in planning, design, and operation of ongoing, new, and/or changing buildings, processes, equipment, maintenance activities, and products (i.e., operational “change management”).

#### **6. Environmental Incident and Noncompliance Investigations**

- a. Describes standard procedures and requirements for internal and external reporting of potential violations and release incidents.
- b. Establishes procedures for investigation, and prompt and appropriate correction of potential violations. The investigation process includes root-cause analysis of identified problems to aid in developing the corrective actions.
- c. Describes a system for development, tracking, and effectiveness verification of corrective and preventative actions.
- d. Each of these procedures shall specify self-testing of such procedures, where practicable.

#### **7. Environmental Training, Awareness, and Competence**

- a. Identifies specific education and training required for organization personnel, as well as process for documenting training provided.
- b. Describes program to ensure that organization employees are aware of its environmental policies and procedures, environmental requirements, and their roles and responsibilities within the environmental management system.
- c. Describes program for ensuring that personnel responsible for meeting and maintaining compliance with environmental requirements are competent on the basis of appropriate education, training, and/or experience.

#### **8. Environmental Planning and Organizational Decision-Making**

- a. Describes how environmental planning will be integrated into organizational decision-making, including plans and decisions on capital improvements, product and process design, training programs, and maintenance activities.
- b. Requires establishing written targets, objectives, and action plans by at least each operating organizational subunit with environmental responsibilities, as appropriate, including those for contractor operations conducted at the facility, and how specified actions will be tracked and progress reported. Targets and objectives must include actions which reduce the risk of noncompliance with environmental requirements.

#### **9. Maintenance of Records and Documentation**

- a. Identifies the types of records developed in support of the EMS (including audits and reviews), who maintains them and where, and protocols for responding to inquiries and requests for release of information.
- b. Specifies the data management systems for any internal waste tracking, environmental data, and hazardous waste determinations.
- c. Specifies document control procedures.

#### **10. Pollution Prevention Program**

- a. Describes an internal program for preventing, reducing, recycling, reusing, and minimizing waste and emissions, including procedures to encourage material substitutions. Also includes mechanisms for identifying candidate materials to be addressed by program and tracking progress.

#### **11. Continuing Program Evaluation and Improvement**

- a. Describes program for periodic (at least annually) evaluation of the EMS, including incorporating the results of the assessment into program improvements, revisions to the manual, and communicating findings and action plans to affected employees, onsite service providers, and contractors.
- b. Describes a program for periodic audits (at least annually) of facility compliance with environmental requirements by an independent auditor(s). Audit results are reported to upper management and potential violations are addressed through the process described in element 6 above.

#### **12. Public Involvement/Community Outreach**

- a. Describes a program for ongoing community education and involvement in the environmental aspects of the organization's operations and general environmental awareness.

- E. Environmental Management System Manual. Within three hundred (300) days of the effective date of this Order, Hawkeye shall submit a complete EMS Manual to DEQ.
- F. Quarterly Reports. Hawkeye shall submit implementation status reports to DEQ on a quarterly basis (i.e., reports for periods of January-March, April-June, July-

September, and October-December). The status reports shall be due within thirty (30) days after the quarter and every quarter thereafter until the Audit set forth in Paragraph II.J, is completed.

G. Auditor Selection. Hawkeye shall select an independent Auditor who:

- was not involved in the Initial EMS Review and Evaluation,
- meets the qualification requirements of ISO 14012 (First edition, 1996-10-01),
- has expertise and competence in the regulatory programs under federal and state environmental laws.
- The Auditor shall be paid by Hawkeye in an amount sufficient to fully carry out the provisions of this Appendix. The Auditor must not directly own any stock in Hawkeye or in any parent or subsidiary, and must have no other direct financial stake in the outcome of the EMS audit conducted pursuant to this Order. The Auditor must be capable of exercising the same independent judgment and discipline that a certified public accounting firm would be expected to exercise in auditing a publicly held corporation. If Hawkeye has any other contractual relationship with the Auditor, Hawkeye shall disclose to DEQ such past or existing contractual relationships.

H. Hawkeye shall identify any and all site-specific safety and training requirements for the Auditor(s), and shall ensure that the requirements are met prior to conducting the audit.

I. Audit Plan. Hawkeye shall require the Auditor to prepare an EMS Audit Plan.

J. Audit. Hawkeye shall require the Auditor to conduct an EMS Audit twelve (12) months after the completion of the EMS Manual, to evaluate the adequacy of EMS implementation, from top management down, throughout each major organizational unit at the Facility, and to identify where further improvements should be made to the EMS. The EMS Audit shall be conducted in accordance with ISO 14011 (First edition, 1996-10-01), using ISO 14010 (First edition, 1996-10-01), as supplemental guidance. The Auditor shall assess conformance with the elements specified in Paragraph II.D, above and with the EMS Manual, and shall determine the following:

- Whether there is a defined system, subsystem, program, or planned task for the respective EMS element;
- To what extent the system, subsystem, program, or task has been implemented, and is being maintained
- Adequacy of each Operation's internal self-assessment procedures for programs and tasks composing the EMS;

- Whether the Facility is effectively communicating environmental requirements to affected parts of the organization, Contractors and on-site service providers;
  - Whether further improvements should be made to the EMS;
  - Whether there are observed deviations from the Facility's written requirements or procedures;
  - And, whether continuous improvement is occurring.
- K. Designated representatives from DEQ and other environmental regulatory agencies may participate in the EMS audit as observers. Hawkeye shall make timely notification to designated regulatory contacts regarding audit scheduling in order to make arrangements for observers to be present. Hawkeye personnel or consultants may also participate in the on-site audits as an observer(s), but may not interfere with the independent judgment of the Auditor.
- L. Audit Reports. Hawkeye shall direct the Auditor to develop and concurrently submit an Audit Report to the Facility and DEQ for the EMS Audit as required by this Order, within sixty (60) days following the completion of the on-site portion of the audit. The Audit Report shall present the Audit Findings and shall, at a minimum, contain the following information:
- Audit scope, including the period of time covered by the audit;
  - The date(s) the on-site portion of the audit was conducted;
  - Identification of audit team members;
  - Identification of any company, facility, or consulting representatives and regulatory agency personnel observing the audit;
  - The distribution for the EMS Audit Report;
  - A summary of the audit process, including any obstacles encountered;
  - Detailed Audit Findings, including the basis for each finding and each Area of Concern identified;
  - Identification of any Audit Findings corrected or Areas of Concern addressed during the audit, and a description of the corrective measures and when they were implemented; and,
  - Certification by the Auditor that the EMS Audit was conducted in accordance with the provisions of this Appendix.
- M. Follow-Up Corrective Measures & Action Plan. Upon receiving the Audit Report, the Facility shall conduct a root cause analysis of the identified Audit Findings, as appropriate, investigate all areas of concern and develop an Action Plan for expeditiously bringing the Facility into full conformance with the EMS provisions in Paragraph II.D of this Appendix and the EMS Manual. The Action Plan shall include the results of any root-cause analysis, specific deliverables, responsibility assignments, and an implementation schedule. The Action Plan shall be submitted to DEQ within forty-five (45) days of receiving the Audit Report. Upon DEQ approval, the Action Plan and implementation schedule shall be an enforceable

part of this Order. Deviations from the Action Plan and implementation schedule require prior written authorization from DEQ.

- N. Action Plan Completion Certification. Within thirty (30) days of completing all items or activities outlined in the Action Plan, Hawkeye shall submit a written Completion Certification to DEQ. The certification shall also include written verification of the final overall and net project cost of the SEP in the form of a certified statement itemizing costs, invoices and proof of payment, or similar documentation. For the purposes of this submittal, net project costs are as defined in paragraph D.3 of the Order.
- O. If the SEP has not or cannot be completed as described in the Order, Hawkeye shall notify DEQ in writing no later than June 1, 2009. Such notification shall include:
1. an alternate SEP proposal, or
  2. payment of the amount specified in Paragraph D.2 as described in Paragraph D.1.
- P. Hawkeye hereby consents to reasonable access by DEQ or its staff to property or documents under the party's control, for verifying progress or completion of the SEP.

Documents to be submitted to the Department, other than the civil charge payment described in Section D of the Order, shall be sent to:

Jennifer Hoeffner  
Department of Environmental Quality  
Piedmont Regional Office  
4949-A Cox Road  
Glen Allen, Virginia 23060